

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #7	CCRB Case #: 201805050	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/20/2018 7:15 PM	Location of Incident: In front of Yankee Stadium	Precinct: 44	18 Mo. SOL 12/20/2019	EO SOL 12/20/2019	
Date/Time CV Reported Mon, 06/25/2018 11:41 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/25/2018 11:41 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Edward McClain	14159	943544	PBBX		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Robert Miceli	12143	950886	PBBX		
2. LT Paul Gaglio	00000	900141	PBBX		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Edward McClain	Discourtesy: Police Officer Edward McClain spoke discourteously to § 87(2)(b)				

Case Summary

On June 25, 2018, § 87(2)(b) filed this complaint via phone with the CCRB.

On June 20, 2018, at approximately 7:45 p.m., PO Edward McClain and Lieutenant Paul Gaglio of the Patrol Borough Bronx Yankee Stadium Detail arrested § 87(2)(b) for scalping tickets in front of Yankee Stadium. As the officers escorted § 87(2)(b) into their stationhouse, which is located inside Yankee Stadium, PO McClain allegedly stated that the tickets he recovered from § 87(2)(b) “smell like balls” (**Allegation A – Discourtesy:** § 87(2)(g)). Once inside the stationhouse, PO McClain allegedly stated to another officer in § 87(2)(b) presence, “These tickets smell like balls” (**Also Allegation A – Discourtesy:** § 87(2)(g)).

There was no video footage available for this incident.

Findings and Recommendations

Allegation A – Discourtesy: Police Officer Edward McClain spoke discourteously to § 87(2)(b)

During his CCRB interview, § 87(2)(b) testified that he arrived at Yankee Stadium with two field box tickets at 6:00 p.m., approximately one hour before the game was scheduled to start. § 87(2)(b) realized that his son would not be able to arrive on time. According to § 87(2)(b) a man in a suit, later identified by the investigation as PO Francis Flynn, approached § 87(2)(b) and inquired about purchasing an extra ticket. § 87(2)(b) asked PO Flynn what he wanted to “donate” for the ticket, and PO Flynn stated, “Regular price.” Approximately thirty seconds later, PO McClain and an unidentified officer approached § 87(2)(b) and handcuffed him. After speaking with PO Flynn, PO McClain retrieved the tickets from § 87(2)(b) underwear. As PO McClain and his unidentified partner escorted § 87(2)(b) into the stationhouse within Yankee Stadium, PO McClain commented, “The tickets smell like balls.” PO McClain repeated the comment verbatim as he escorted § 87(2)(b) from the front desk to the cell area.

§ 87(2)(b) stated that another prisoner in the cell area heard PO McClain’s comments. The investigation identified this prisoner as § 87(2)(b) was ultimately unavailable to the investigation (01 Board Review, see IAs).

PO McClain stated that he was informed of the attempted ticket sale by another officer, whose identity he did not recall, after which he approached § 87(2)(b) and informed him that he was under arrest. PO McClain did not remember where on § 87(2)(b) person he discovered the tickets, but he acknowledged searching § 87(2)(b) pockets and waistband to retrieve them. PO McClain denied reaching into § 87(2)(b) underwear for any reason. PO McClain denied saying, “The tickets smell like balls,” at any point. He also denied making any comments of a sexual nature or regarding § 87(2)(b) genitals [02 Board Review].

Lieutenant Gaglio testified that he approached § 87(2)(b) with PO McClain. At some point during the arrest, PO McClain informed Lieutenant Gaglio that the tickets had been inside § 87(2)(b) underwear. Lieutenant Gaglio also accompanied PO McClain and § 87(2)(b) into the stationhouse. He denied that PO McClain said, “These tickets smell like balls,” at any point outside or inside of the stationhouse. According to Lieutenant Gaglio, PO McClain did not make

any statements regarding the smell of the tickets, regarding § 87(2)(b) genitals, or make any other comments of a sexual nature [03 Board Review].

PO Misceli denied participating in § 87(2)(b) arrest, though he acknowledged seeing § 87(2)(b) in a cell at the stationhouse. He did not see PO McClain speak with § 87(2)(b) PO Misceli did not learn that PO McClain stated to or § 87(2)(b) or any other party, “The tickets smell like balls.” Similarly, he did not hear or learn that PO McClain made any comments of a sexual nature regarding § 87(2)(b) [04 Board Review].

§ 87(2)(g)

PO McClain has previously been cited for providing a false official statement to the CCRB in case 201209982. In that case, the investigation determined using video evidence that PO McClain struck two dirt bikes with his marked sedan, ultimately killing one of the riders. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [05 Board Review].
- PO McClain has been a member of service for seven and has been a subject in six other CCRB complaints and 16 other allegations, of which two were substantiated:
 - 201209982 involved substantiated allegations of Force - Vehicle against PO McClain. He was also cited for other misconduct for providing a false official statement regarding this allegation. The Board recommended charges. The NYPD disposition is unknown.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On September 7, 2018, a Notice of Claim inquiry was submitted to the Office of the New York City Comptroller. Its results will be added to the case file upon receipt.
- § 87(2)(b)

§ 87(2)(b)

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Squad No.: 7

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____